A

# TREATISE,

SHEWING

How Usefull, Safe, Reasonable and Beneficial, the

## Inrolling & Registring

Of all Conveyances of Lands, may be to the Inhabitants of this

# KINGDOM.

*By a Person of Great Learning and Judgment.*

*LONDON*,

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# TREATISE,

SHEWING

How Useful, Safe, Reasonable and
Beneficial, the

## Inoculating & Engrafting

Of all Contagious or Infectious Diseases to the
Inhabitants of this

# KINGDOM.

By a Perſon of Great Learning and Judgment.

LONDON,

# A TREATISE Concerning *Inrollment* of *DEEDS.*

IN the Buſineſs in Agitation touching Inrolling of Deeds, Theſe things conſiderable.

1. The Miſchief propounded, to be remedied.

2. The Remedy to be applyed.

The Miſchiefs at preſent to be remedied are,

1. The great Deceit committed by Perſons by ſecret Judgments, Mortgages, Conveyances, and Settlements; whereby Purchaſers are oftentimes deceived, and Creditors defeated. And this the more conſiderable in *England*, becauſe indeed the great Inland-Trade we have, is the Trade of Buying and Selling of Lands, and the great Security that is ordinarily given to Creditors and Lenders of Money is by Security of Land.

2. The Multitude of chargeable and difficult Suits in Law, occaſioned by Preconveyances, ſecret Mortgages and other Incumbrances, which proba-

bly would be avoided and leſſened, if all Mens Eſtates lay open to the View of others.

The Remedy propounded is, by an Office of Inrollment, or Regiſtry of Conveyances.

In this, as in all other Applications of Remedies to any Miſchiefs, theſe things muſt be conſidered.

1. How and by what means the Remedy may be commenſurate to the Miſchief?

2. Whether the Remedy or the Application thereof in ſuch manner as it may be commenſurate to the Miſchief, be ſeaſible or not?

3. Admit it be, Then what Inconveniencies may otherwiſe be introduced by the Application of the Remedy.

1. If the Inconveniencies introduced by it be greater than the Benefit it gives, the Remedy is to be rejected.

2. If the Inconveniencies thereby occaſioned be over-weighed by the Benefit, Then it may be Entertained.

But with due Conſideration or Proviſion that thoſe Inconveniencies introduced by the Remedy, may with as much Prudence as may be, be obviated, prevented, removed, or very much allayed by ſuitable Proviſions againſt them.

The firſt of theſe Conſiderations, namely the Application of the Remedy in a due Commenſurateneſs, to the Miſchief, muſt needs be by taking Care that there be no Room or Inlet for any ſuch Deceit by ſecret Conveyances or Incumbrances of Eſtates: *For if any one Leak be left unſtopt, the Veſſel will ſink as well as if more were open.* And if any one Device be left unprovided for, thither will fraudulent Perſons betake

betake themſelves, and get out of the Remedy intended.

Therefore,

1. All Judgments, Statutes, and Recognizances, muſt lye open to view, either by Inrolling or Regiſtring them, becauſe thoſe charge Lands.

2. All Truſts touching Eſtates muſt be Inrolled or Regiſtred, for now by the Power of Courts of Equity, theſe do charge Lands, and ſometimes in the hands of the Fourth or Fifth Purchaſor, if there be proof of notice. Truſts.

3. All Mortgages, as well forfeited as not forfeited, Defeazances in Nature of Mortgages, muſt be Inrolled.

4. All Powers of Revocation and limitting of new Uſes, Powers of Letting or Charging Eſtates, muſt be Regiſtred or Inrolled; for theſe may alter the Title of Lands, and are ſometimes contained in diſtinct Deeds, from the Deed whereby the Eſtate is ſetled.

5. All Declarations of Uſes and Truſts upon Fines, Recoveries, and other Aſſurances.

6. All Grants of Rents, Commons, Profits, all Conditions and Reſervations of Rents.

7. All Leaſes, for Years or Lives, made by any Perſon either with Rent, or without it.

8. In brief, All Feoffments, Grants, Releaſes, Confirmations, Wills, Forfeitures, Eſcheats, Commons, or whatſoever other Eſtate or Intereſt in them.

For if any of theſe be not Inrolled or Regiſtred, or ſome way rendred open to the view of every Perſon, a Man may be cheated or deceived. And what is odds, whether a Man be deceived by a ſecret Mortgage or Judgment? or by a ſecret Leaſe for Lives or Years, or by a ſecret Settlement, or Deviſe or Will? And all theſe muſt be ſecret to him that hath no ready means to diſcover them: The Remedy whereof is deſigned in this publick Regiſtry.

And yet further, If the Remedy be intended as large as the Diſeaſe, this Regiſtry muſt not only look forward, but it muſt look backward, (*viz.*) That all Eſtates and Incumbrances now in Being, as well as thoſe that ſhall be hereafter, muſt be laid open to the View, otherewiſe the Proviſion is not commenſurate, there being in all probability a Stock of latent Incumbrances and Charges upon Lands, which may ſerve at leaſt to deceive and cheat this preſent Age, and the next alſo. Therefore unleſs there be ſome Notification of preſent Incumbrances as well as future, we but lay up a Security, that it may be of uſe an Hundred Years hence, and leave the preſent and intervening Ages in as bad, if not worſe Condition, than we find them.

Therefore a Remedy commenſurate to the Miſchief muſt needs provide for the Regiſtring all Eſtates

ſtates and Intereſts, and Charges of Lands, and that as well for the time paſt, as time to come; otherwiſe the Plaiſter is too narrow for the Sore.

2. The ſecond Conſideration is, Whether this be poſſible to be done? Indeed it is a fine thing in the Theory and Speculation, and a Man that fixeth his Thoughts upon the good that might come by ſuch an Expedient, without troubling himſelf with the Difficulties that lie in the way to it, may drive it on very earneſtly; but he that ſhall conſider the Difficulty of it, will eaſily ſee that it is but a Notion and Speculation, and cannot be effected or reduced into practice, at leaſt not without immenſe Confuſion.

The Difficulties that attend this Deſign, are either ſuch as relate to the Inrolling of Eſtates now in Being; or ſecondly, The Inrolling of Eſtates hereafter to made or granted; or Thirdly, Such Difficulties as relate to both.

1. The Difficulties that attend the Inrolling of Eſtates now in Being, or paſt, theſe ſeem inſuperable. In order to the diſcovery hereof, we muſt ſuppoſe, that either every Man ſhall be at Liberty to Inroll or Regiſter his Eſtate, or it muſt be under this Penalty, that if he fail herein, he muſt loſe his Eſtate. If we ſuppoſe the former, then every Man is ſtill at Liberty, as he was before, and nothing is effected by it. Liberty. Penalty.

If the Latter, (*viz.*) That he ſhall loſe if he do not Inroll the Eſtate he hath, or which is all one, it ſhall be in the power of him that Inrolls a Subſe-

quent

quent Title to make the former, not Inrolled, void; Then either that Inrollment or Registry must be barely of his Claim, or some Abstract of his Title; or he must Inroll the Tenor of the Deed, or Evidence by which he Claims.

Mistakes.

Abstracts.

If we shall suppose the former, then these things will be Considerable. *First*, What if he doth in some things mistake his Claim? It may be, he thinks he has an Estate in Fee-Simple, when it is but in Tail, It may be an Estate Absolute, when it is Conditional; Certainly he that Claims by an Abstract, had need of a very good Counsel at his Elbow, to give him sound and uncontroulable Advice, in drawing it up; otherwise he that hath a good Title may lose it for want of a right Abstract of his Title by which he Claims. Surely therefore every Man that hath a good Title, and can possibly come by the Deed or Evidence by which he Claims it, will Inroll his Deed at large, for fear he should omit any thing essential to his Title. *Secondly*, Or else it is intended, that though he mistake his Title, yet if he enter as much as he thinks fit, it shall be sufficient to preserve his Estate. And if this be intended, the whole design of Registring and Inrolling will End in a publick Deceit and Insecurity, when perchance in the Event, the Estate or Interest Claimed, doth materially and substantially vary from what is Registred. *Thirdly*, Again, if such an uncertain Claim shall be allowed, not made good by Deeds or Evidences, this Office will breed more Disturbance in many Estates, than any imaginable Deceits or Frauds besides can equal: For any Man shall at a venture make what Claims, and

set

ſet up what Pretences he pleaſes to any Mans Eſtate in *England*, and ſhall be admitted to Enrol them in the Regiſtry, and the Perſon injured ſhall be either remedileſs, or driven to more Suits and Expences, to vindicate his Title, than now he is neceſſitated unto, to diſcover a Fraud in a Seller.

Suits increaſed.

It remains therefore neceſſary, that whoſoever will Inrole any thing in being, he muſt produce ſome Authentick Deed, or other Record, to warrant what he would have Inrolled, and then there muſt be Inrolled at leaſt ſo much of the Deed, or Evidence that concerns, *Firſt*, The Parties, Grantor and Grantee. *Secondly*, The things Granted. *Thirdly*, The Eſtate Granted. *Fourthly*, All thoſe parts of the Deed, or Evidence, that have any Influence upon the Eſtate: as Rent reſerved, Conditions, Powers of Revocation, of Alteration, of Leaſing, the Truſt, *&c.* and thoſe other things that have an Influence upon the Eſtate; and without all this done and truly done, the Purchaſer or Lender, is as much in the Dark as before, and Cheated under the Credit of a Publick Office Erected to prevent it.

This being the State of the Buſineſs in relation to Inrolling of things paſt; there follows next, thoſe Difficulties that render the Deſign either Impoſſible or Fruitleſs.

1. Many Perſons that have Titles, have them by Livery without Deed, or cannot bring the Deed to the Office to be Regiſtred, or Inrolled, becauſe the Deed it ſelf is not, nor by Law cannot be in their Cuſtody

Remainders. Wills. Purchasors.

Custody, at least *de facto* is not in their Custody: as they that Claim Remainders where the Custody of the Deed belongs to others, those that Claim by Wills, either concealed, or in the Hands of Executors, and many have lost their Deeds in the late Troubles, and to compel Possessors, especially Purchasors of Lands, to discover the Deeds, which possibly they have for the Security of their Title, or to discover the defects of their own Assurances to make others Mens Title appear; and this under a Penalty or Action were an unreasonable thing, and would create a general insecurity of Purchasors.

Mean Conveyances.

If (44. *Eliz.*) *A.* Conveyed his Land to *B.* and 12. *Ja.* 1. *B.* Conveyed it to *C.* and 3. *Car.* 1. *C.* conveyed it to *D.* and 20. *Ca.* 2. *D.* Conveyed it to *E.* must all these Conveyances be Inrolled or only the last? If all must be Inrolled, then if any one Mans Conveyance be omitted, suppose it from *A.* to *B.* then the omission of the Inrollment thereof, will give a Title to *A.* or his Heir, to make a Claim to this Land, if only that from the last Seller, then is the Purchaser in the Dark still, what Estates were in the antecedent Owners, and how Derived, and so the Design ineffectual to the end proposed.

3. If all the mean Conveyances of Mens Estate, should be Inrolled, *Westminster-Hall* would not hold the Inrollments, and the Charge thereof would be above two Millions of Money; nay, if we should suppose the present Estates of the present Owners of Lands in any one considerable County, were to be Inrolled, the Charge would be intollerable, and the

Bulk

Bulk it ſelf would be utterly uſeleſs: Suppoſe in *London*, 20000. Houſes, and each Houſe to have but two Titles, that is, that of the Owners of the Inheritance, and that of the preſent Leſſee, (tho' ſome have many more concurrent and coincident Titles to recompence thoſe that may have poſſibly leſs) this would bring to the Inrollment Office 40000. Deeds, the Inrollment of every Deed at leaſt 10 s. would produce 20000 Pound and about 200. Volumes of Velum Books, which would take up the Imployment of many Clerks, and when the work was done, the Volumes too vaſt and numerous to be made uſe of; and what would be done then with the many Leaſes of Weſtern Mannors, which yet have many under Titles derived under them?

4. But how ſhall theſe Deeds come to be Inrolled? he that made them perchance is Dead, or at leſt will not come to acknowledge it, and if every Man that brings a Deed ſhould have it Inrolled without acknowledging it by him that made it, any forged Deed may be Inrolled, and Men in a little while, may loſe their Eſtates, by the Countenance that a forged Deed ſhall receive, by being Inrolled among the publick Records of the Office; for the Officer can never examine the Truth or Reality of the Deed, or if he could, it would not be reaſonable that Mens Eſtates ſhould depend upon the Judgment of any Ignorant Clerk, or Officer.

2. As for the Inrollment of all Conveyances and Deeds for the time to come, this labours under great Difficulties alſo, though not ſo many and ſo

great, as the Inrollment of things past; because here the Persons that make the Deeds may possibly come to acknowledge them before some Persons publickly intrusted, as two Justices of the Peace, or the Master of the Office; yet this has also great Difficulties.

Acknowledgment.

1. Many Mens Estates are by Will, where the Proprietors of the Estates have not the Custody of the Will to produce.

2. How shall the Officer before whom the Will is produced, if it be produced, know whether the Will be true or forced, or revoked? since the Devisor is now Dead, that made it; and surely it can't be intended that every Man that makes his Will of Land shall Inroll it in his Life-time, since he may often change, revoke, and alter it.

Wills.

3. Although it is a very great Inconvenience and fit to be remedied by Act of Parliament, that many times in Courts of Equity, Trusts are averred without and contrary to Deed, yet certainly so long as that Usage is allowed, all Trusts of Estates cannot be Inrolled because they be oftentimes in Averment and Proof without Writing, and so do oftentimes the uses of Fines, which as yet have influence into the Estates of most Men, and yet as the Law now stands are averrable without Deed.

Trusts.

See Act of Fraud and Perjuries.

4. The Charge of Inrollment of all Incumbrances and Estates of Land, even for the future will,

in

in the ſpace of few Years, grow vaſt, and the Regiſtry or Inrollment-Office will grow ſo Voluminary in ſeven or eight years in moſt Countries, that they will become uſeleſs and unmanageable to the Ends propounded, as would eaſily appear upon a *Medium* or Eſtimate of the Eſtates, Conveyces, Leaſes, Judgments, and other Incumbrances that grow up in one County, in one Year.

3. Theſe Difficulties that are common both to Inrollment of things paſt, and to come, are principally theſe:

1. The Place where this Regiſtry ſhall be kept, if in *London*; all Men muſt come up thither to Inroll their Deeds, which will be intollerable: If in the Countries where the Lands lye, then *London* being the Great Center of Buying and Selling, a Man that deals here at *London*, muſt be forced to ſend into *Cornwall* or *Northumberland*, to ſearch the Regiſtry there. Ubi.

Again, What ſhall be done, where one Conveyance comprizeth Lands in ſeveral Counties? or where a Man, having Lands in ſeveral Countries, Acknowledgeth a Judgment or Statute, ſhall this be Regiſtred in every County? And if it ſhall, how ſhall the Commiſſioners know all the Counties where his Land lieth? and how ſhall the Deed in one Several Counties.

County be transmitted to another, or must it be acknowledged in every several County, and by the Party there Inrolled?

Judgments. &c.

2. Again, How shall Judgments that Charge Lands or Statutes, Merchant, or the Staple, be authentickly Registred in every County? and what Warrant shall be sufficient for it, especially since there be so many Courts of Record in *England*, wherein Judgments given, will charge Lands in other Counties, as in the Courts at *Westminster*, the Courts of Grand-Sessions, *&c.*

So that as to Estates and Incumbrances already before this time created, the propounded Register seems utterly impossible and unpractical: As to Estates and Incumbrances for the time to come, tho' more practical, yet very difficult, cumbersome and chargeable, and scarce applicable to the End designed, if it be compulsary upon all to do it.

Compulsion.

3. As to the Inconveniencies, I shall mention some, and of those, some applicable to both Proposals, both of Registring things past, and to come, tho' far greater in relation to the time past.

1. Whereas many Men perchance, for many years have quietly enjoyed their Estates, although perchance some little Defects there might be in their Evidences, as for want of some Ceremonies, Circumstances or Words: Now by Inrolling of these Deeds,

all

these Defects will be exposed to the View, Observation and Search, and Discovery of others; whereby busie Projectors will be picking holes in the Titles and Estates of many Men, which are now quiet and at rest. This will discover the Flaws and Defects of all Mens Assurances, and multiply Suits and Questions. Suits multiplied.

2. Whereas it many times moves great Distempers in Families, when Children shall see and know how their Parents dispose their Estates among them in their Life-time. This Course will force the Father to Enroll all his Settlements, whereby all his Intentions will be discovered in his Life-time, which may breed great Unquietness and Animosity; or otherwise, it will put it in the Power of the Heir if the Deed be not Inrolled, to sell the Land, and so defeat all his younger Brothers and Sisters.

3. Whereas some are desirous that the Greatness of their Estates may not be known, to expose them to Envy and Detraction; Others are desirous that the Weakness of their Estates may not be known, to expose them to Contempt or Question. This Registring of Men's Estates and Interests, disappoints both, even where there is no occasion for a Purchasor to be concerned, nor any Design of Fraud in either.

4. It is worth Enquiry, whether the Prospect of this Business is not so much to remedy old Inconveniencies, as to introduce new, by Erection of new Offices and new Officers, Salaries, Fees, which will

will bring in an excessive Charge upon the People, and is always accompanied with further Exactions; sometimes for Expedition, sometimes for preference of one Man's Inrollment before another, which will certainly be found together with great Delays, especially where the Business of the Office is like to be very great.

Upon the whole matter, I think that the Compulsion of every Man to Inroll or Register his Writings and Evidences of his Land, whether past, or future, under any Penalty, is unpractical, and utterly inconvenient and dangerous to Men's Estates.

And now if it be Objected, That these Difficulties and Inconveniencies be but imaginable, or easily superable by prudent Provisions, and all the Inconveniencies objected, may be in like manner remedied, since we daily see in Copyhold Mannors, and in some great Precincts, as for Instance, in *Taunton* Mannor, all Men's Estates are Inrolled, or so Registred, that it prevents all possible Fraud by Preconveyances, and hath brought great Quiet and Security to Men's Estates, without the least Sence of any of the objected Difficulties or Inconveniencies.

*I Answer.*

1. That the Cases are not alike Inrollments of Copies of Court-Roll, or within a private Mannor serves but a small Precinct, but the thing in proposal intended for a great Kingdom.

2. There

2. There it hath been long ſince begun, and ſo hath been carryed down in Succeſſion of Time, and rendered Familiar, and Cuſtom and Uſage hath accommodated the Practice: But if it were now to be begun, and take in, eſpecially all former Eſtates, it would be very difficult to be put in ure, even in a conſiderable Mannor or Burrough; much more in a great Kingdom.

It is true, That if all Conveyances of Lands were for the time to come Regiſtred, it would in proceſs of time do much good, and prevent many Suits and Frauds, tho' perchance the preſent Age may not find the Advantage of it. And certainly, it was the great Deſign of the Statute of the 27. *H.* 8. of Inrollments to have brought up that Method of Aſſurances, and had it been purſued, it had before this time been brought to great Perfection, and done much of that Good which is now intended by it. 27. *H.* 8.

But to make the Deſign at this day Practical and Uſeful, theſe things muſt be obſerved,

1. In reference to Deeds of all ſorts.

2. In reference to Wills.

3. In reference to Judgments, Statutes and Recognizances.

1. There-

1. Therefore in relation to Deeds, theſe things are neceſſary to make the Deſign Practical and Uſeful.

1. That it be Enacted that no Eſtate paſs from Man to Man (by Act executed in Life-time, other than by laſt Will) for above Years, without Deed.

A& of Frauds.

2. That no Uſe or Truſt of any Eſtate be raiſed, but by Deed expreſſing the ſame.

3. That to prevent the extream length of Covenants in Deeds, there be thought of certain Words that may carry in them the Strength of Covenants or Warranty's; as for Inſtance, [*Deds*, or *Gave*] to include a Warranty and Covenant againſt all Men, and alſo for further Aſſurance, [*Grant*] to include a Warranty and Covenant againſt the Party, and all Claiming under him, and for further Aſſurance within Seven Years, [*Deliver*] to include a Warranty and Covenant againſt the Party and his Anceſtors, and all Claiming under that, and for further Aſſurance, within ſeven Years; and divers Inſtances of this kind might be contrived by ſhort Words to include Large Sentences; Thus it was done by the Statute of *Bigamis*, and this would ſhorten Deeds, and abridge their Charge of Enrolling.

Words to mean more.

Stat. of *Bigamis.*

4. That

4. That all Deeds to be Inrolled be Acknowledged before a Judge of *Westminster-Hall*, Master of the Chancery, as now; or before two Justices of the Peace in the County, and they to have Power to examine Feme Coverts to prevent the Charge of Travel, and of Commissions to take Acknowledgments. Feme Coverts.

5. That all such Deeds as are to be Inrolled, be Inrolled either in the Courts at *Westminster*, or in the Counties, before the Clerk of the Peace of that County where the Landlies, or in Cities, according to the Stat. of 27. *H.* 8.

This will prevent the needless multiplying of new Offices, and the gaping of People after them, and perform the Business according to the known and settled Usage already Established by Law, without introducing Novelties more than need. Offices.

6. That if the Land lye in several Counties, the Inrollment at the Courts at *Westminster* to suffice: If Inrolled in one County, it may be sufficient for the rest, only a short Abstract or Certificate thereof to be sent at the desire of the Party to the Clerk of the Peace, of the other Counties, subscribed by him, to be Entred with the Clerk of the Peace of the other Counties where the Land lie. Inrollment at *Westminster*.

7. That no Deed be Inrolled after 3 Months, from the time of the Caption.

8. That the Relation of the Inrollment of Deeds to bind or prevent mean Incumbrances, relate only to the time of the Caption at farthest.

9. That twice in every Year at least, there be transmitted from the Office of Inrollments in Chancery, Abstracts or Certificates of Inrollments to the several Clerks of the Peace of those respective Counties where the Lands lie, under Seal, and so from the Clerks of the Peace of the several Counties, to the Clerk of the Inrollments in Chancery, that they may be reciprocally Entred: This to be done under a pecuniary Penalty, but not to invalid the Inrollments.

10. That some settled easie Fees may be Established by Act of Parliament, for the Caption, Inrollment, and Certificates.

11. That no Penalty lye upon any Party for not Inrolling his Deeds, farther then by Law is Established already, but only by Act of Parliament, a considerable Advantage to him that Inrolls. This will invite Men to do it voluntarily, and in a little time will carry the greatest Course of Assurance in this Method, without any Grievance or Inconvenience.

12. That

12. That the Advantages propounded be such as these:

1. That whatsoever Estate, Reversion, Remainder, or Contingent Remainder, or Uses, a Man may barr, by Fine or Common Recovery, with single or double Voucher, he may barr by a Deed enrolled; *except as to the Point of Nonclaimes*, Provision for Infants and Ideots. Common Recoveries and Fines

2. That a Deed Inrolled may supply the defect of Livery and Seisin, and Attournment: But not as to forfeiture of the Estate of him that makes it. This is partly done already by Law.

3. That Uses may be as well created and executed upon a Deed Inrolled, as upon a Fine or Feoffment, or Release. Uses on Deed enroll'd.

It is True, That by those Advantages, and some others that may be added, most of the Assurances in *England* will run this way; and thereby,

1. The Offices of Clerks of the Peace, and Inrollments in Chancery, will grow to be great and beneficial Offices.

2. The Offices relating to Fines and Recoveries, will sink very Low, as the Prothonotaries, the Chyrographers, *Custos brevium*, Clerk of the King's Silver, Clerk of the Inrollments,

and the Practice of many Clerks that uſually deal in Fines and Recoveries.

3. The King's Fines upon Originals, and the Commiſſioners for the Compoſition of Poſt-Fines, will decay in time; which will be a Loſs to the King; The Keeper of the Great Seal, the Maſter of the Rolls, and Curſitors, and Lords of Liberties.

*But to this I ſay,*

1. The ſwelling of theſe Offices may be corrected to the publick Benefit, by making the Rates of their Fees lower.

2. The Offices, that will by this means be impaired, may be conſidered, if it be thought fit, by ſome Allowances out of the Offices of Inrolments, though the Officers of the Court of Wards found no ſuch Proviſion for them: And if ſome Counties were allotted to the Common-Pleas for Inrollments, that might eaſily be applied, and diſtributed ſo as to countervail the Loſs.

ommon-leas.

3. The Loſs of Fines, and Poſt-Fines, may be abundantly recompenced by a very ſmall Allowance upon every Deed inrolled; and yet the Subject be a Gainer by it.

And as theſe ſmall Difficulties may be eaſily recovered, ſo theſe great Conveniencies would enſue.

1. No

1. No Man would be compelled to Inroll his Deeds, and yet every Man might take the Advantage of it that pleased.

2. The old Course of Fines and Recoveries, not taken away, but left for every Man to use that would, though a cheaper and readier Course of Assurances be substituted.

3. Whereas now no Fine, or Recovery can be had in Vacation time, whereby many Men, before they can settle their Lands by this means, Entailes and Some Coverts may be barred, and settle their Estates as they have occasion. Vacation time.

4. It would take away the Charges of Travel to *London*, by Persons living remote; the Charges of Commissions, *Dedimus potestatem*, Warrants of Attorney, and all those incident Charges of Fines and Recoveries: So that a Man that is necessitated to sell his Land, though it be but an Acre, cannot do it, by Fine or Recovery, under Fifty Shillings, may be able, by this means, to perfect his Assurance for Ten Shillings. Cheapness.

5. It will, in few Years, carry the whole Track and Current of Assurances in a way that may be open to all Men, and yet without Compulsion to any.

6. It

3. It will prevent those many Defects in Assurances by Fines and Recovery, which consisting of so many Parts, and passing through so many Hands, are subject oftentimes to be Reversed: It may be, for the Loss or Mistake of an Original Writ, or some Defect. And thus far for Inrolling of Deeds.

27. *Eliz.* 2 Touching Judgments and Statutes. The Statute of 27. *Eliz.* hath provided in a good Measure for the Inrolling of Statutes: But as for Judgments it is a Business of great difficulty how to Inroll them especially because it cannot

1. Be readily known where the Party lives, or where his Land lies by the Ministers of that Court where the Judgment is given, and so it will be difficult to transmit the same into the Countries where the Land lies.

2. If that were all known, yet it might be hard that a Copy of a Judgment, in Paper, should be a sufficient Warrant to enter it with the Clerk of the Peace in the County.

But all the way that seems to be practical in this kind, were for the Clerks of the several great Courts, to extract out of the Rolls, the Abstracts of the Recognizances and Judgments, for four or five Years past, or more; and also for the time to come, as they are entred, and to digest them in Alphabet, according to the Surname of him that acknowledgeth them,

them, &c. and so to preserve them for publick Inspection, this might be easily done, and a Salary or Fee setled by Act of Parliament for the respective Offices employed therein. Only there are these Inconveniences which must be remedied.

1. The Retrospect of a Judgment to the beginning of a Term, though acknowledged, it may be long after.

2. The late Inrolment of Judgments confessed, so that there is little appears of Record, but only in private Remembrancers.

3. The keeping of Paper Recognizances acknowledged in Courts for many Days and some Months, without Inrolling them as they ought, and yet by relation to the time of the Caption, many times over-reach Men's Purchases and Securities: These might be remedied by the Orders of several Courts without an Act of Parliament, if strictly enjoyned and observed, though a short Act would easily make the Remedy universal.

3. *And lastly*, Touching Wills, the Difficulty will be very great to put them into better Order, than they are at present, abating some few things.

For

For the Devisor himself must not Inroll his Will, for the Reasons before given, and especially for that it is alterable every Hour, and many times made in Extremity, when there can be no authentick Officer to Receive or Attest it.

And when he is Dead, the Will comes to the Hands of the Executors, and it may be controvertible, and if the Entry then of it by an Executor, or one that pretends to it, should render it Authentick, it may prejudice the Just Rights of others.

And on the other side, oftentimes the Devisee of Lands hath not the Custody of the Will, and it would be unreasonable that the Executor's Neglect should prejudice the Devisee's Interest.

I know not how the Case of Wills can be made much safer or better than it is, at least unless the Insinuation thereof were under the Examination of Temporal Courts; but that perchance would be thought too great a Charge.

Only it were well, if some greater Solemnity were required by Law in Wills, whereby Lands are devised; for ever since the Stat. of 34. *H.* 8. more Questions, not only of Law, touching the Construction of

Stat. Fraud.

Wills,

Wills, but also of Fact, arise, than in any other General Titles or Concerns of Lands besides. As, Whether a Will were made or not? Whether revoked or not? Whether the Party that made it were of a disposing Memory, or not? which multiplies Suits, and makes great Uncertainties.

But an Act may be necessary to prefix a Time and Order for Claims to burned Houses in *London*, and a Judicatory settled for the determining thereof summarily; because otherwise, possibly Latent Incumbrances may arise upon those that have been at great Charges in Building. *London Burnt.*

But it were far better, that there might be an Act to quiet the Enjoyment of those that have built according to the Decrees, and under the Rules already decreed, because their Charge hath made the Improvement, and saved it from the Forfeiture which would otherwise have happened; therefore no Reason their Possession should be disturbed. And besides, all Persons that had any pretence of Claim, either have made it, and their Claims examined by a publick Judicatory, or might have done in so long a space, which they have neglected, and it hath been their own faults.

Therefore this Case touching the burned Houses being particular; in a particular Project, and thus circumstantiated, will not make any Parallel Case to Universal Registers.

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